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July 21, 1992

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MBJ
RQ-669

The Honorable Dan Morales
Attorney General
STATE OF TEXAS
Post Office Box 12548
Austin, Texas 78711-2548

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Attn: Opinion Committee

Opinion Committee

Dear General Morales:

The City of San Antonio and its suburban cities are having difficulty interpreting Chapter 395 of the Local Government Code, which governs the use of impact fees by cities.

The City of Leon Valley is currently in negotiations with the City of San Antonio in regard to a wastewater contract. The City of San Antonio is the regional collector for all wastewater. Chapter 395 of the Local Government Code provides for cities to recover their costs of capital improvements related to such collection through impact fees. Negotiations between the City of San Antonio and several suburban municipalities are currently at an impasse due to a difference in interpretation of the impact fee chapter.

The following questions are in need of interpretation:

1. Does Chapter 395, Section 395.011(c) of the Local Government Code grant authority to a municipality to contract to provide capital improvements to an area outside its corporate boundaries and extra-territorial jurisdiction if such area is within the boundaries of another municipality?
2. If a municipality may charge an impact under a contract to an area within the boundaries of another municipality, does this grant the providing municipality jurisdiction under Chapter 395, specifically Section 395.0455, in order for the area to be included in the Capital Improvements Plan?
3. If there is no mechanism for a municipality to charge such fees within another municipality under Chapter 395, does this take such fees out of the purview of that Chapter and thus allow collection not inconsistent with that Chapter?

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4. If a providing municipality cannot charge such fees within or without of the purview of Chapter 395, is it allowable for a receiving municipality to include capital improvements under the control of the providing municipality in its Capital Improvements Plan, in order for these fees to be collected?

I appreciate your interest in this matter. If I can be of any assistance in review, please let me know.

Sincerely,



O. H. "Ike" Harris

cc: The Honorable Cyndi Krier